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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,128

01/17/2006

Tatsuo Shimizu

06.22.01.P

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35870

7590

07/19/2011

APEX JURIS, PLLC

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EXAMINER

BARROW, AMANDA J

ART UNIT

PAPER NUMBER

1729

MAIL DATE

DELIVERY MODE

07/19/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b><i>Notice of Non-Compliant Amendment (37 CFR 1.121)</i></b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/565,128	SHIMIZU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	AMANDA BARROW	1729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 10 June 2011 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: The newest claim set does not correspond with what is stated in the applicant arguments/remarks made on 6/10/2011 and 2/23/2011. Specifically, in the 6/10/11 response, Applicant elects "Species 1, and claims 12 & 13 therein;" however, Species 1 comprises claim 11 while Species 2 comprises 12 & 13 (see restriction requirement mailed on 4/12/2011). Thus, it is not clear if the Applicant wants Species 1 or Species 2.

Furthermore, the restriction requirement claim set submitted on 6/10/2011 has claims 8 and 10 listed as withdrawn; however, these claims were not restricted by the Examiner and in the RCE remarks, the Applicant has amended claim 8 and argues it in the RCE remarks. Thus, it is not clear whether the Applicant wishes to have claims 8 and 10 withdrawn or within the claim set as currently amended because the claims and remarks submitted on 6/10/2011 and 2/23/2011 supply conflicting information.

- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

#### TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/AMANDA BARROW/ Examiner, Art Unit 1729	/ULA C. RUDDOCK/ Supervisory Patent Examiner, Art Unit 1729
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U.S. Patent and Trademark Office  
PTOL-324 (01-06)

**Notice of Non-Compliant Amendment (37 CFR 1.121)**

Part of Paper No. 20110708